



C.R.P. No. 1502 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.1502 of 2019

and

C.M.P. No. 9825 of 2019

1. K.S. Deeparani,
D/o. K.S.Srinivasan

2. K.S.Rajkumar,
S/o. K.S. Srinivasan

... Petitioners

Vs.

1. Nallathambi,
S/o. Chinnapaiya Gounder

2. Eswaran,
S/o. Subramani

3. Punitha,
W/o. Eswaran

4. Murugesan,
S/o. Kali

... Respondents

PRAYER: Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 30.08.2018 in



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I.A.No.757 of 2018 in O.S.No. 619 of 2008 on the file of the Principal

District Munsif Court, Salem.

For Petitioners : Mr.K.Selvaraj

For Respondents : R1 – Insufficient address

R2 to R4 – No appearance

ORDER

The revision petitioners are the third parties in the Interlocutory Application in I.A.No. 757 of 2018, which was filed by them under Order 1 Rule 10 and Sec.151 of C.P.C. to implead them as defendants 4 and 5 in the suit in O.S.No.619 of 2008 on the file of Principal District Munsif, Salem filed by the 1st respondent/plaintiff for the relief of declaration and other consequential relief against the defendants 1 to 3 with regard to cancellation of sale deed.

2. During the pendency of the suit proceedings, the defendants 1 to 3 remained exparte and exparte decree was granted in favour of 1st respondent/plaintiff. After that, one Erusa Gounder purchased the property from the plaintiff, from whom, the petitioners purchased the property on 24.05.2011. Now, the petitioners came to know that exparte decree was set



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aside in I.A.No. 1455 of 2013 and the suit is ripe for trial. But, as on date, these revision petitioners are owners of the property. So, they want to implead themselves as defendants in the suit. Hence, they have filed an Interlocutory Application in I.A.No. 757 of 2018 to implead them, but the same was dismissed by the trial court on merits stating that during the pendency of the suit, there is no necessity to implead them, because the cause of action arose much prior to the purchase. Aggrieved over the said findings, the proposed parties filed this Civil Revision Petition.

3. Today, when the matter taken up for hearing, there is no representation on the side of respondents. The learned counsel for Revision Petitioners submitted that they have purchased an extent of 15.5 cents in Survey No.90/1 out of 17 cents, which is first item of suit property. Though they have purchased the property during the pendency of suit proceedings, at that time, the suit was decreed in favour of plaintiff, now the said exparte decree is set aside and the suit is ripe for trial. So, to protect their right over the property, they wanted to implead themselves as defendants in the suit. Hence, they prayed to allow this Civil Revision Petition.



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4. Admittedly, during the pendency of suit proceedings, they have purchased the property in the year 2011. According to proposed purchasers, after the exparte decree, they have purchased the property. But, anyhow, as per the sale deed, they are claiming right in respect the first item of suit property. If they are not given any chance to proceed with the trial, it will lead to multiplicity of proceedings. So, to avoid the same, this Court is inclined to set aside the order passed by the trial court in I.A.No. 57 of 2008 and necessary amendment in the cause title is to be carried out. Accordingly, this Civil Revision Petition is allowed. However, liberty is granted to both parties to submit their submissions. Thereafter, the trial court is directed to dispose of the case within a period of six months from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is also closed.

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Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
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To
Principal District Munsif, Salem.

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T.V.THAMILSELVI, J.

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